

AMENDED IN SENATE MAY 16, 2016

Senate Constitutional Amendment

No. 13

Introduced by Senator Nguyen

April 12, 2016

Senate Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 12 of Article I thereof, relating to bail.

LEGISLATIVE COUNSEL'S DIGEST

SCA 13, as amended, Nguyen. Bail: risk of flight exception.

The California Constitution requires a person to be released on bail, as provided, ~~except for~~ *if he or she is accused of* certain crimes and offenses, including capital crimes when the facts are evident or the presumption great, and felony offenses involving acts of violence on another person, or felony sexual assault offenses on another person, when the facts are evident or the presumption great and the court finds based upon clear and convincing evidence that there is a substantial likelihood the person's release would result in great bodily harm to others.

This measure would expand the exception *from the right to bail* described above to include *crimes in which a person is accused of committing felony sexual assault offenses against a minor and other, specified sex offenses committed against a minor* when the facts are evident or the presumption great and the court finds based on preponderance of the evidence that there is a substantial likelihood the person will flee if *he or she is* released and that no condition or combination of conditions will reasonably ~~assure~~ *ensure* the person's appearance at hearing or trial if *he or she* released.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring,* That the
2 Legislature of the State of California at its 2015–16 Regular
3 Session commencing on the first day of December 2014, two-thirds
4 of the membership of each house concurring, hereby proposes to
5 the people of the State of California, that the Constitution of the
6 State be amended as follows:

7 That Section 12 of Article I thereof is amended to read:

8 SEC. 12. (a) A person shall be released on bail by sufficient
9 sureties, except for any of the following crimes and offenses:

10 (1) Capital crimes when the facts are evident or the presumption
11 great.

12 (2) Felony offenses involving acts of violence on another person,
13 or felony sexual assault offenses on another person, when the facts
14 are evident or the presumption great and the court finds based upon
15 clear and convincing evidence that there is a substantial likelihood
16 the person’s release would result in great bodily harm to others.

17 (3) Felony offenses when the facts are evident or the
18 presumption great and the court finds based on clear and
19 convincing evidence that the person has threatened another with
20 great bodily harm and that there is a substantial likelihood that the
21 person would carry out the threat if released.

22 (4) Felony *sexual assault* offenses *against a minor and other*
23 *sex offenses described in the Sex Offender Registration Act when*
24 *committed against a minor; including, but not limited to, any of*
25 *the following*, when the facts are evident or the presumption great
26 and the court finds based on preponderance of the evidence that
27 there is a substantial likelihood the person will flee if *he or she is*
28 released and that no condition or combination of conditions will
29 reasonably ~~assure~~ *ensure* the person’s appearance at hearing or
30 trial if ~~released~~ *he or she is released*:

31 (A) *Oral copulation.*

32 (B) *Lewd and lascivious acts with a minor or who is under 14*
33 *years of age.*

34 (C) *Arranging a meeting with a minor or a person he or she*
35 *believes to be a minor for the purpose of engaging in lewd or*
36 *lascivious behavior; including, but not limited to, engaging in*
37 *sexual conduct with, or in the presence of, that minor.*

1 (D) *An attempt to commit an act described in subparagraph*
2 *(A), (B), or (C).*

3 (b) ~~Excessive~~*An excessive amount of bail shall not be required.*
4 *imposed.* In fixing the amount of bail, the court shall take into
5 consideration the seriousness of the offense charged, the previous
6 criminal record of the defendant, and the probability of his or her
7 appearing at the ~~trial or hearing of the case.~~ *or trial.*

8 (c) A person may be released on his or her own recognizance
9 in the court's discretion.